IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

WP(C).No. 35597 of 2005(K)

PETITIONER:

KUSUMAM AUGUSTINE, LECTURER SENIOR SCALE IN ENGLISH, G.P.M. GOVERNMENT COLLEGE, MANJESHWAR 571 323.

BY ADV. SRI.JOSHI N.THOMAS

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY ITS PRINCIPAL SECRETARY TO GOVERNMENT, HIGHER EDUCATION DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR OF COLLEGIATE EDUCATION, VIKAS BHAVAN, P.M.S.JUNCTION, THIRUVANANTHAPURAM.**

3. **THE ADDITIONAL DIRECTOR OF COLLEGIATE EDUCATION, CONVENOR, SCREENING/SELECTION COMMITTEE DEPARTMENT OF COLLEGIATE EDUCATION, THIRUVANANTHAPURAM.**

4. **THE ACCOUNTANT GENERAL (A&E)KERALA, P.E.NO.5607, M.G.ROAD, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SMT.M.R.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS

EXT.P1	**TRUE COPY OF ORDER DTD. 13-02-1990 ISSUED BY R2**
EXT.P2	**TRUE COPY OF THE TRANSFER OF CHARGE OF THE PETITIONER**
EXT.P3	**TRUE COPY OF THE ORDER DATED 16-04-04 ISSUED BY R3**
EXT.P4	**TRUE COPY OF THE ORDER DTD. 16-09-04 ISSUED BY R3**
EXT.P5	**TRUE COPY OF LETTER DTD. 16-09-04 ISSUED BY R2**
EXT.P6	**TRUE COPY OF THE REPRESENTATION TO R2**
EXT.P7	**TRUE COPY OF THE CIRCULAR DTD. 14-10-91 ISSUED BY R2**
EXT.P8	**TRUE COPY OF THE ORDER DTD. 24-12-96 ISSUED BY R1**
EXT.P9	**TRUE COPY OF THE JUDGMENT IN W.P.C.NO.17103/03**
EXT.P10	**TRUE COPY OF THE JUDGMENT IN W.P.C NO.18882/05**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

W.P.(C).No.35597 0F 2005

Dated this the 23rd day of March, 2007

JUDGMENT

Case of the petitioner in brief is as follows:

Petitioner was appointed as Lecturer in English vide Ext.P1 order dated 13-02-1990. Petitioner joined duty on 26-02-1990 as evidenced by Ext.P2. Petitioner was ousted from service for the period from 27-03-1991 to 13-08-1991. Petitioner again rejoined duty on 14-08-1991. According to the petitioner, petitioner is entitled to count the broken period also for the purpose of conferment of senior scale. Petitioner was granted senior scale by Ext.P3 with effect from 27-07-1998. Petitioner filed Ext.P6 before the Director of Collegiate Education praying that broken period also should be counted.

2. Going by Ext.P4 it is clear that notice is taken of the break period between 28-03-1991 to 13-08-1991. The contention of the petitioner is that broken period also should be counted. Petitioner relies on Exts.P9 and P10.

3. I heard learned Government Pleader also. Learned Government Pleader submits that petitioner may be entitled to count the broken period of service under the old scheme, but petitioner has to complete 8 years and even if the petitioner is allowed to take into consideration the broken period service, petitioner would be entitled to senior scale on 11-07-98. He submits that there can be no objection in law in counting the broken service of the petitioner in reckoning the period of 8 years for conferment of senior scale.

In that view of the matter, I declare that petitioner is entitled to count the services for the period from 26-02-1990 to 27-03-1991 and also service from 14-08-1991 till such time as there is deficit for making up the period of 8 years after counting the period from 26-02-1990 to 27-03-1991. Appropriate orders on the basis of this declaration shall be passed by the second respondent within a period of six weeks from the date of receipt of a copy of this judgment.

K.M.JOSEPH
JUDGE

sv.